

UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: MARK N. HEFLIN; JAMES B. STEWART and SAMUEL K. KAESEMEYER

Application No. 10/715,243

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on August 12, 2006 . A review of the application has revealed that the application is not ready for review and consideration. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

On April 4, 2006, an Examiner's Answer was mailed in response to the Appeal Brief received January 17, 2006. A review of the Examiner's Answer reveals that it is not in compliance with the Manual of Patent Examining Procedure (MPEP). In the "Evidence Relied Upon" (section 8), the Examiner states: That "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal." However, the MPEP §1207.02 states that the "Evidence

Relied Upon" section must include:

(8) Evidence Relied Upon

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

Correction of the record is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the examiner to:

- 1) issue a revised Examiner's Answer to include all required headings as set forth under 37 CFR § 41.37, and
- 2) for such further action as may be appropriate.

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